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ORIGINAL

JOHN E. LOGAN PLLC  
ATTORNEY AT LAW

June 14, 2004

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

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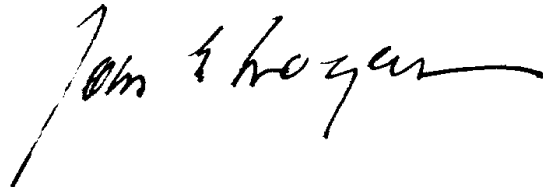
Re: *Ex Parte* Submission  
CC Docket 94-102

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Ms. Dortch:

On behalf of ATX Technologies, Inc., enclosed is an *ex parte* communication that has been submitted to the Commission's staff relating to issues contained in the above docket. Pursuant to the Commission's rules, please place this letter in the record of this proceeding.

Respectfully,



enclosure

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June 11, 2004

Mr. John Muleta  
Chief, Wireless Telecommunications Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Dear Mr. Muleta:

On December 1, 2003, the Commission released its Report and Order and Second Further Notice of Proposed Rulemaking, CC 94-102, addressing the *Revision of Commission's Rules to Ensure Compatibility with Enhanced 911 Systems*. The Commission determined that E-911 requirements should not be imposed on telematics providers that do not provide a commercial mobile radio service interconnecting with the public switched network. The Commission concluded that the better course was an informal approach in assisting stakeholders' implementation of these capabilities. In the Order, the Commission also made clear its desire to encourage the mutual efforts between public safety organizations and the private telematics industry to provide prompt, location-based emergency response.

ATX Technologies Inc. (ATX), the second largest provider of telematics services for the automotive industry, serves markets in both North America and Western Europe. ATX offers a customized, integrated telematics solution to meet the demands of automobile manufacturers and their dealerships and their mutual customers – vehicle owners.

Consistent with the Commission's Order, ATX provides this progress report on the work being conducted in concert with public safety organizations to enhance the communications interface between private and public call centers involving location-based telematics calls. It has always been our premise that these cooperative efforts are the most productive way to bring the correct resources in the most expeditious way possible to the citizen facing an emergency.

As noted in our comments in the proceeding, ATX maintains that the most immediate and critical priority to ensuring a rapid delivery to Public Safety Answering Points (PSAP) is a seamless and standard method for handling and transferring emergency calls. For this reason, ATX has been involved during the first half of this year in promoting a call center training program reflecting standards that exceed the minimum training guidelines drafted and released last year by a committee within the Association of Public-Safety Communications Officials (APCO) dedicated to this purpose.

ATX, as well as other consumer-vehicle and commercial-fleet telematics providers, has been cooperating with the APCO Telematics Task Force, dedicated specifically to enhancing the communications interface between private telematics

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call centers and PSAPs. The task force has been working jointly with telematics call center operators and PSAPs in identifying interface issues based on actual field experience and developing standards to address those issues. This process, still ongoing, will review and examine whether to propose new procedures involving automatic collision notification calls, advanced collision calls and data streams, stolen vehicle locate and recovery, possible missing persons, suicide calls and a range of other transmission issues ranging from call bridging, accident verification, in-vehicle privacy safeguards and agreed-upon escalation procedures if there is a failure in the process. We believe this initiative is very important not only because it addresses immediate issues that impact emergency response today, but also brings a systematic process, organization, and active and broad industry participation to addressing this challenge. Moreover, the initiative encompasses examining the use of secure web based Internet protocols in order to integrate into the effort the benefits accruing from modern and evolving technology.

In addition, ATX has participated in a joint APCO-NENA Call Center-to-Call Center Forum addressing a variety of technical issues relating to the efficient and effective transmission and receipt of calls. We have also met with several individual PSAPs, rural, suburban and urban, on localized issues. ATX also maintains ongoing dialogue with the federally funded Department of Transportation field trial in Minnesota as well as the work of the ComCARE Alliance and the Intelligent Transportation Society of America. We have also followed closely the meetings of the Commission's Wireless E911 Coordination Initiative and the work of its advisory committee, the Network Reliability and Interoperability Council (NRIC) that are addressing 911 implementation matters.

NENA has recently issued *Draft Minimum Standards for Private Call Centers* and sought public comment. In our view, the proposed standards seek to impose numerous policies, practices and procedures unrelated to the core goal of enhancing the communications interface between private call centers and a PSAP. Attached is a copy of our comments where we convey to NENA our strong objection to the proposed standards, which were drafted without investigating existing operational procedures and legal/privacy limitations governing the current PSAP-telematics call center interface and without collaborating with the telematics industry or the APCO initiative. In fact, this process was chartered originally to outline requirements for accessing NENA's PSAP registry not as requirements governing telematics in general. It is our serious concern that any attempt to implement these standards will result in an unwarranted delay in enhancing location-based emergency response through telematics devices. As a result, we've asked NENA to reconsider its separate initiative and to join the current effort being led by APCO, which historically has led national policy initiatives or standards pertaining to PSAP operations and training.

Please call upon me if you have any questions regarding these efforts. The Commission's leadership in enhancing emergency response is to be commended.

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ATX will continue to keep the Commission apprised of our own progress on a regular basis.

A copy of this letter will be provided to the Commission's Secretary for placement in the record in Docket CC 94-102.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary A. Wallace". The signature is written in a cursive, flowing style.

Gary A. Wallace  
Vice President, Corporate Relations

Attachment

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A copy of the foregoing letter was provided to the following individuals:

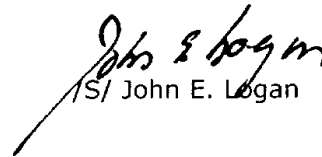
Ms. Marlene H. Dortch  
Secretary of the Federal Communications Commission  
(with appropriate copies)

Ms. D'Wana Terry  
Chief  
Public Safety and Critical Infrastructure Division  
Wireless Telecommunications Bureau  
Federal Communications Commission

Mr. Greg Guice  
Wireless Telecommunications Bureau  
Federal Communications Commission

Mr. David Siehl  
Wireless Telecommunications Bureau  
Federal Communications Commission

6.11.04

  
/S/ John E. Logan



*Via regular and electronic mail*

May 28, 2004

Mr. Rick Jones, ENP  
Director, Operations Issues  
National Emergency Numbering Association (NENA)  
4350 North Fairfax Drive  
Suite 750  
Arlington, Virginia 22203-1695

Re: Draft NENA Minimum Standards for Private  
Call Centers

Dear Mr. Jones:

On behalf of ATX Technologies, Inc. (ATX), this letter responds to the request for comments on the draft NENA Minimum Standards for Private Call Centers. ATX, the second largest provider of telematics services for the automotive industry, serves markets in both North America and Western Europe. ATX offers a customized, integrated telematics solution to meet the demands of automobile manufacturers and their dealerships and their mutual customers – vehicle owners..

ATX commends the commitment of NENA and its membership to the goal of bringing the most expeditious response possible to the citizen facing an emergency. As it interacts on a daily basis with the public safety answering points (PSAPs) in the United States and Canada, ATX shares that commitment. Much can be gained by cooperative relationships between private call centers (including telematics centers) and the PSAPs across the country in promoting the most effective and efficient means to ensure that emergency responders are dispatched as quickly as possible with as much information as possible. We think much can be gained by establishing criteria that will promote an effective communications interface between private call centers and PSAPs.

The proposed standards contained in the draft standards by a NENA subcommittee unfortunately do not focus on the interface between private call centers and PSAPs. While asserting that "occasionally, private call center operators...will become part of an emergency event where collection of essential event information is an essential precursor to initiating proper response..." (Paragraph 1), the proposed standards proceed to delineate "standards of professional behavior" (Paragraph 2.1) for virtually every aspect of a private call center's operations. These draft standards, characterized as "constructive regulation" (Paragraph 2.2) of private call centers, dictate the specifics of how a private call center should serve its customers. The proposed standards ignore the

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legal and economic environment of private call centers and fall far short of articulating the most effective means to ensure an expeditious response. The draft will stifle implementing innovative technological advances and best use-best practice measures, and impose cost prohibitive solutions on consumers. Additionally, the standards are contrary to ATX's experience gained from working with PSAPs across the Nation on a daily basis for the last decade. In fact, many of these standards have neither been adopted or adhered to by public sector PSAPs. The breadth and substance of the draft standards will be a disincentive to cooperation, raise the potential to spawn litigation and ultimately undermine emergency response.

The NENA draft notes that its proposed standards parallel the Security Industry Association's (SIA) *Mobile Security Devices Standard* and, consequently, suffers from many of the same significant deficiencies. That document was drafted years ago and before the telematics industry emerged into what it is today. Much of the content in that document addresses applications and circumstances that never came to fruition. Consequently, it is a standard that offers little relevance to the actual services, technology and operations that have evolved in the telematics market. With much of its basic premise based on an unrealistic and outdated document, the draft NENA standard also suffers from the lack of a substantive understanding about a modern, telematics operation, including how its services are delivered today to PSAPs nationwide (regardless of a PSAP's E911 readiness), the capabilities of telematics equipment both in the vehicle and in the call center, and the legal environment in which the industry operates.

These shortcomings emanate from a fatal flaw-- the lack of comprehensive fact-finding and due diligence that is the foundation of any process seeking to establish standards. We are not aware that there was any site visit to any ATX or other telematics response center, any meetings with ATX or industry technical engineers or operations personnel, or any efforts to comprehend the technical and logistic challenges a private call center faces. The document fails to address the emerging data interface between PSAP and telematics provider nor is there any indication that the standards included input from emergency medical, trauma, EMS, law enforcement and transportation organizations. ATX believes sincerely that any standard setting process must make a thorough attempt to understand the technology and the protocols or the operations that augment it, particularly those involving the communications interface with PSAPs and others in the emergency response chain. The course this process has taken is contrary to NENA's traditional approach to addressing technical issues.

The NENA subcommittee draft fails to recognize and encompass the extensive research that has been conducted by NENA's ally in public safety advocacy, the Association of Public Safety Communications Officials, International, Inc. (APCO). APCO established a telematics task force designated specifically to identify and create standards that are relevant to the actual communication of emergency information from telematics service providers to public safety as well

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as the current operating, training, technical and legal environment within the industry. The task force has conducted site visits to various telematics operations, have had personnel monitor actual emergency calls coming into a telematics call center, and have had extensive technical and operational discussions about interfaces with both consumer and commercial telematics operations. In addition, the Task Force conducted focus groups of PSAPs, ranging from big city metropolitan PSAPs to rural PSAPs, in an attempt to understand the interface in depth. As a result, the training and operating standards that have emerged and APCO continues to develop are based not on presumptions, but on first-hand observations, actual operating and training procedures, and the uniqueness of vehicle-based telematics operations and technology as compared to public dispatch operations and those of other private call centers.

ATX urges NENA to leverage the extensive research APCO has conducted and collaborate in and support the APCO initiative, similar to the minimum training standards for the telematics industry presented during the last year. ATX recognizes that assimilating the varying roles and expertise of the several organizations representing public safety and that of private industry into one effort presents substantial challenge. Yet, failing to do so will inevitably result in the many interests being at cross purposes, with the opportunity for improvements in emergency response lost.

Overall, the NENA draft document is based on faulty presumptions, was drafted without credible inquiry and fact finding and ignores the substantive work already done on interface protocols. The draft is plagued with several specific deficiencies that reflect our overall objection and make it unrealistic to implement. A review is set forth below:

### **Basis of Regulation**

NENA asserts two bases for promulgating regulations for private call center operations. The first is to condition access to the NENA PSAP Registry information by requiring a commitment to adhere to the standards. The NENA PSAP Registry information is a proprietary database encompassing the name, location, physical address, city, state and zip codes of PSAPs across the country. ATX respects the proprietary character of the NENA database and the investment needed to create and maintain it. A fair compensation structure imposed on users of the database as a means to allow its owner to recoup this investment is reasonable.

It is another thing, however, to require that access to the NENA database be dependent on the additional requirement of adhering to the proposed standards. ATX believes not only is such a requirement anticompetitive, but provides no sound basis for the extensive "constructive regulation" (Paragraph 2.2) of the operations of private call centers. By venturing far beyond what reasonably can be viewed as promoting effective communications interface processes between





PSAPs and private call centers and protecting the integrity of the NENA database, NENA veers into matters much beyond its competency and jurisdiction.

NENA asserts a second basis for regulating private call center operations; the standards are necessary for "private call centers to effectively interact with PSAP personnel and other public safety representatives." (Paragraph 2.2). As a result, it is necessary to "articulate the standards of professional behavior" of private call centers. (Paragraph 2.1). Neither NENA nor a local PSAP has any legal authority to impose such pervasive regulation on the operations of a private call center. The proposed standards stray wildly from the core interest of promoting effective and efficient transmission of information that will assist emergency response. The record should clearly reflect that these standards have not been mutually agreed upon with industry.

### **Services Covered**

The standards claim to cover private call centers that provide services targeted at the protection of life and real property, such as home and commercial alarm monitoring services, and monitoring the recovery of other assets, such as motor vehicles. (Paragraph 1.0). While purporting to cover the range of call centers, the proposed standards are automotive telematics centric. There is no reference to the Mobile Satellite Systems (MSS) wireless services the Federal Communications Commission (FCC) recently imposed 911 responsibilities upon, and for which discrete criteria addressing interface parameters would provide valuable insight. The standards fail to address or even acknowledge the range of well-documented challenges to public safety agencies that home and commercial security alarm providers present. By focusing exclusively and with such minute detail on automotive telematics call centers, the proposed standards provide no comprehensive approach to private call center emergency response and in doing so ignore the greater challenge of promoting effective technical interface between private call centers, most notably those mentioned above, and PSAPs.

### **Privacy**

The proposed standards are contrary to established policies protecting individual privacy that must be adhered to by private entities. Several of the proposed standards violate current or pending legislation addressing privacy by a number of states and privacy safeguards addressed in contractual agreements between individuals and their automobile manufacturer and, by extension, their telematics provider. Several provisions in the draft document also assume technical capability that does not exist, imposing substantial additional investment to provide. The proposed standards also ignore established law enforcement policies and procedures with regard to obtaining evidence and will compromise investigations and prosecutions.



The proposed standards dictate extensive information that must be obtained from the vehicle owner, paragraphs 3.2.4 and 3.2.5, the vehicle itself, paragraph 3.2.5(7), how that information is to be compiled, paragraph 3.3.9 and for how long it is to be maintained, paragraph 3.3.8. The standards violate customer service agreements presently in place, which are the premise of Canadian federal and provincial privacy policies and what has emerged as the foundation of United States privacy policy. The US regime embraces the reasonable expectation an individual has with regard to personal information and the obligation of the holder of the information to respect that expectation. By ignoring the US and Canadian structure, the proposed NENA standards lead to violations of federal, state and provincial laws addressing personal privacy.

Paragraph 3.2.4(4) requires that if a crime is in process the call center will provide customer identification information such as name, home address, telephone number, and other personal information. Section 3.2.6(3) states that the call center will contact immediate family members, personal doctors, and other customer related contacts if requested to do so. Both provisions violate the privacy expectations encompassed in some customer service agreements restricting the dissemination of such information. Section 3.2.4(5) requires that where a vehicle is equipped with location determination equipment the call center will provide information regarding the make, model, color, license plate number, the speed, direction, and other location information. Speed is not captured as a data point in most current systems and even if could be captured, no customer will allow it to be revealed. Several states, including California, Maryland and New York, have enacted laws or have legislation pending, restricting the availability of such vehicle information except under circumstances involving a court order.

Similar privacy concerns are raised in provisions addressing what must comprise the database of the private call centers information system. Section 3.3.3, Customer Vehicle Data, Section 3.3.7, Contact Lists, Section 3.3.8, Data Retention and Retrieval, and Section 3.3.9 Statistical Reporting Capability, all impose a NENA mandate of what personal information relating to an individual must be collected, how it should be compiled and how long it should be retained. The proposed standards ignore that private call centers have made a judgment, based on experience of what best assists an emergency response, the privacy expectations of vehicle owners, the contractual commitments with their customers, the general body of laws governing the retention of business records, and the related costs. That the information the standards demand is far in excess of that received from the average 9-1-1 caller reiterates our pervasive objection to the NENA standards; they do not relate to the immediate objective of enhancing the interface involved in transmitting information from the call center to the PSAP.

Paragraph 3.2.10 requires recording all incoming calls, the visible data related to the call, and outgoing call data including email, MDC messages and other electronic messaging data and any voice elements, including calls made to third



parties. The requirement appears to encompass all transmissions, not simply those relating to a request for emergency response. Paragraph 3.3.8 requires that information be maintained for a period of one year after contract expiration. Event information must be maintained for a period of one year. Not only would these requirements breach current agreements and in some cases statutory requirements, neither ATX, its competitors, nor any OEM could escape the negative reaction from its customers, the public and government agencies for maintaining and retaining such information. It is also our understanding that it is customary for PSAPs to retain event information for only 30-90 days.

The proposed standards casual treatment of the privacy expectations of the vehicle owner is a core defect. One of the underlying premises of automotive telematics relates directly to its ability to attract and maintain customers. Protecting information that can be compiled from use of the service is integral to the relationship. A customer has a reasonable expectation – backed by statute in some jurisdictions – that personal and vehicle data can only be disseminated with the customer's consent and only for specific purposes, and retained for only a period of time required to fulfill the purpose for which it was collected. Customers also have a reasonable expectation that their vehicle will not be tracked, that its speed not recorded, and that the intervals of when the vehicle is stationary are not determined. Yet the proposed NENA standard fails to recognize any of these principles and statutes.

The standards move from violating the legitimate privacy expectations of the customer to collecting and storing information for law enforcement purposes. Paragraph 3.2.6(4) requires that evidence such as tape recordings, vehicle tracking information, and call detail record information be forwarded to the responding public safety agency. While alluding to the possibility that a subpoena may be necessary, the premise of the provision assumes that such information is be transmitted in the ordinary course. The provision ignores the privacy interests of the individual and the law's acknowledgement of the legitimacy of this expectation. Requiring private call centers to submit routinely such information creates a substantial risk that the evidence transmitted will not be allowed in court, thereby compromising the investigation and any prosecution. Furthermore, private call centers have no way to recoup the costs associated with such submissions, including but not limited to the costs to assure that such requests are legitimate.

NENA's traditional mission of enhancing the emergency response network is not served by having its policies embroiled in controversies over abridging individual privacy rights; the privacy debate the draft rules will engender will be unrelenting and dilute the effort to enhance emergency response. ATX has expended substantial resources, including litigation, to pursue an aggressive stance in protecting the privacy of the vehicle owner and those who use the automobile as well the owner's interest in the vehicle's data and will continue to do so.

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## **Additional Costs and Burdens**

The proposed standards state that "it is not the intent of NENA to burden private call centers with any additional or ancillary costs in relation to the standards listed in this document." (Paragraph 2.7) This statement is simply wrong; the proposed standards will not only impose substantial additional costs on private call centers but will do so without advancing emergency response.

By purporting to establish standards for private call centers, many of which have neither been adopted nor adhered to by public sector PSAPs, NENA is directing how private call centers should be operated and the products and technologies to be used. The standards will stifle innovative and more efficient technologies that could further assist PSAPs. It disregards the fundamental motivation of each private call center to provide technology and service that attracts and retains customers and substitutes NENA's own view of how this should be accomplished. Missing from the NENA analysis is any acknowledgement that effective relationships with PSAPs are a critical element in serving the call centers customers and the enormous investment directed to this goal.

Specifically, paragraph 3.3.9 imposes a particular scheme of statistical reporting capability, giving no indication as to why a PSAP may need such a format. Paragraph 3.4.0 enumerates necessary facilities and supports systems. Paragraph 3.4.2 requires back up power or stand by generators, ignoring the more effective solution of being able to move operations to a parallel call center in the event of disruption. Paragraph 3.4.3 enumerates the telephone features necessary, ignoring the technological capability to expand communications capability in real time when presented with increased demands. Paragraph 3.14.13 requires a call center to maintain a hard copy back up of customer information that is constantly available, ignoring more efficient and accessible alternatives. Paragraph 3.4.18 dictates that the call center establish policies regarding the use of corporate email programs, the corporate intranet and its information system, the relation and purpose of which to emergency response is unclear. Paragraph 3.4.21 requires call center capability to instantly recall the most recent 30 minutes of any call center customer conversation and be able to provide the audio to a requesting PSAP, a request ATX has never encountered.

It is in such extraneous detail that the objective of promoting effective interface between private call centers and PSAP is lost. As noted several times, the proposed standards dilute the significant good to be obtained by directing the private call center how to run its business, a relationship where its customers have made an affirmative decision to acquire and retain it. Telematics services are not mandated by any law or regulation, the customer makes a choice. The standards by imposing pervasive regulation of how an automotive telematics call center should operate distracts and undermines substantially the more focused objective



to promote effective communications interface between the private call center and a PSAP.

### Summary

Earlier this year, the Federal Communications Commission determined not to impose a mandate with regard to how automotive telematics call centers should interface with a PSAP. The Commission, finding that requests to a telematics provider frequently were handled more expeditiously than calls directly to the PSAP, determined that no mandate is required. It expressed the view that progress can best be obtained through continued cooperative efforts among interested parties. It is from this premise that ATX has always operated. The NENA document appears determined to diverge from the Commission's viewpoint and to advocate a mandated solution based on faulty premises, a lack of fundamental and substantive research and investigation, a disregard for individual privacy rights and expectations, and lack of legal standing. The breadth of regulation the NENA standards impose go far beyond any reasonable parameter to obtain progress toward our mutually avowed goal to enhance the communications interface. ATX urges NENA to limit its focus to what information and in what format should private call centers transmit information to a PSAP and that it join the ongoing APCO process to refine these parameters. In view of the FCC's intention to monitor progress, we will be providing a summary of recent efforts to the FCC and other interests and will include a copy of these comments.

ATX appreciates the opportunity to comment. Please call upon me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary A. Wallace'. The signature is stylized and cursive.

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Vice President for Corporate Relations

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